

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

PAVEL KISLYAK,)	4:12CV3043
)	
Plaintiff,)	
)	
v.)	MEMORANDUM
)	AND ORDER ON APPLICATION
)	TO PROCEED IN DISTRICT
NEBRASKA STATE, et al.,)	COURT WITHOUT PREPAYING
)	FEES OR COSTS
Defendants.)	

This matter is before me on Pavel Kislyak’s Application to Proceed in District Court Without Prepaying Fees or Costs (“IFP”). (Filing No. [2](#).) Upon review of the record in this case, I find that Pavel Kislyak (“Kislyak”) is financially eligible to proceed IFP, and I will presume that Kislyak is not a prisoner for the purposes of the Prison Litigation Reform Act (“PLRA”).

The term “prisoner” under the PLRA “means any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for, violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.” [Kolocotronis v. Morgan, 247 F.3d 726, 728 \(8th Cir. 2001\)](#) (citing [28 U.S.C. § 1915\(h\)](#)). A person involuntarily committed as a mental patient, and not as a result of a criminal conviction, is not a “prisoner” for the purposes of the PLRA. *See also Jackson v. Johnson, 475 F.3d 261, 266 (5th Cir. 2007); Willis v. Smith, No. C04-4012-MWB, 2005 WL 550528, at *9 (N.D. Iowa 2005).*

The record does not disclose whether Kislyak’s current commitment to the Lincoln Regional Center arises from any criminal conviction. However, to facilitate a more expeditious resolution of this case, I will presume that Kislyak is residing at the Lincoln Regional Center as a patient and not as the result of a criminal conviction.

Upon review of the record, Kislyak's Application to Proceed in District Court Without Prepaying Fees or Costs is provisionally granted, and Kislyak is relieved from payment of the filing fee in this matter.

IT IS THEREFORE ORDERED that:

1. Kislyak's Application to Proceed in District Court Without Prepaying Fees or Costs (filing no. [2](#)) is provisionally granted. Kislyak is not required to pay the filing fee in this matter.

2. The clerk of the court is directed to send a copy of this Memorandum and Order on Application to Proceed in District Court Without Prepaying Fees or Costs to the appropriate officials at the Lincoln Regional Center.

Dated March 12, 2012.

BY THE COURT

s/ Warren K. Urbom
United States Senior District Judge